

ENCLOSURE 3

From: [Amelia Schmidt](#)
To: [Jordan Merson](#)
Cc: [Jennifer Plotkin](#); kkramer@mersonlaw.com; dackerman@motleyrice.com; [Ian Clement](#); [Jalicha Persad](#); Danny@CevallosWong.com; [Geller, Melissa S.](#); [Breslin, Eric R.](#); [Courtney Forrest](#); [Matt Kaiser](#); david.cattie@cattie-law.com; [Kenneth Mapp](#)
Subject: RE: Does v. USVI - Deposition Notices
Date: Wednesday, December 11, 2024 12:34:00 PM

We will plan to submit a letter-motion requesting a conference under Rule 37.2, briefly explain our position, and note that the parties agree that an impasse has been reached.

Thank you,

Amelia

From: Jordan Merson <jmerson@mersonlaw.com>
Sent: Wednesday, December 11, 2024 10:22 AM
To: Amelia Schmidt <ASchmidt@kaiserlaw.com>
Cc: Jennifer Plotkin <jplotkin@mersonlaw.com>; kkramer@mersonlaw.com; dackerman@motleyrice.com; ian.clement@doj.vi.gov; [Jalicha Persad <jalicha.persad@doj.vi.gov>](mailto:Jalicha.Persad@doj.vi.gov); Danny@CevallosWong.com; [Geller, Melissa S.](#) <MSGeller@duanemorris.com>; Breslin, Eric R. <ERBreslin@duanemorris.com>; [Courtney Forrest <cforrest@kaiserlaw.com>](mailto:Courtney.Forrest@kaiserlaw.com); [Matt Kaiser <mkaiser@kaiserlaw.com>](mailto:mkaiser@kaiserlaw.com); david.cattie@cattie-law.com; [Kenneth Mapp <rasmapp@aol.com>](mailto:rasmapp@aol.com)
Subject: Re: Does v. USVI - Deposition Notices

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know that the content is safe.

We are not going to agree here. We could just send a letter:

Dear Judge Subramanian:

The parties would like clarification on the extent that Your Honor wants discovery to proceed.

It is defendants' position that the scheduling of depositions need not take place until after the motions to dismiss decision.

It is plaintiffs' position that the scheduling of depositions occur now to be set for February.

Very truly yours,

Jordan K. Merson
Merson Law, PLLC
950 Third Avenue
18th Floor
New York, New York 10022
(212) 603-9100 Main
(212) 390-1712
(347) 441-4171 Facsimile
jmerson@mersonlaw.com
mersonlaw.com

On Wed, Dec 11, 2024 at 9:36 AM Amelia Schmidt <ASchmidt@kaiserlaw.com> wrote:

Jordan,

Thank you for getting back to me. We disagree that it's appropriate to schedule depositions without knowing which, if any, of Plaintiffs' claims will even be proceeding to discovery. The Court was clear that—while the parties should be preparing to move discovery forward pending resolution of the motions—substantial discovery while dispositive motions are pending would be inappropriate. While the Court indicated we'd have a ruling by now, that's still forthcoming; we can't know how much longer it will take at this point, and depositions are clearly substantial discovery. Agreeing to schedule them no earlier than 30 days until after a ruling on the motions to dismiss is the reasonable approach.

Please let us know your availability to confer today or tomorrow, pursuant to Judge Subramanian's rules.

Thanks,

Amelia

From: Jordan Merson <jmerson@mersonlaw.com>

Sent: Tuesday, December 10, 2024 10:02 PM

To: Amelia Schmidt <ASchmidt@kaiserlaw.com>

Cc: Jennifer Plotkin <jplotkin@mersonlaw.com>; kkramer@mersonlaw.com; dackerman@motleyrice.com; Ian Clement <ian.clement@doj.vi.gov>; Jalicha Persad <jalicha.persad@doj.vi.gov>; Danny@CevallosWong.com; Geller, Melissa S. <MSGeller@duanemorris.com>; Breslin, Eric R. <ERBreslin@duanemorris.com>; Courtney Forrest

<cforrest@kaiserlaw.com>; Matt Kaiser <mkaiser@kaiserlaw.com>; david.cattie@cattie-law.com;
Kenneth Mapp <rasmapp@aol.com>

Subject: Re: Does v. USVI - Deposition Notices

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know that the content is safe.

I do not agree that it is "improper" and in fact, the Judge wanted us to proceed with discovery notwithstanding the pending motions but in good faith, we will agree to adjourn if you and your colleagues are willing to set dates certain for these witnesses for February. If the motions have not been decided by mid January, we can revisit this but given everyone's schedule, we should get dates scheduled now.

Very truly yours,

Jordan K. Merson
Merson Law, PLLC
950 Third Avenue
18th Floor
New York, New York 10022
(212) 603-9100 Main
(212) 390-1712
(347) 441-4171 Facsimile
jmerson@mersonlaw.com
mersonlaw.com

On Tue, Dec 10, 2024 at 9:56 PM Amelia Schmidt <ASchmidt@kaiserlaw.com> wrote:

Jennifer, Jordan, Kimberly,

My colleagues received the attached notices of deposition from you, beginning with Ms. de Jongh's for January 13.

We don't have a ruling yet from the Court on our client's—or any of the other defendants'—motions to dismiss. Any depositions before a ruling on those motions are improper (not to mention premature, given initial discovery responses aren't even due until next week).

Please let us know if you agree to adjourn depositions until at least 30 days after the Court has ruled on the motions to dismiss (which, again, is more than reasonable given that the parties haven't even begun producing any documents yet). If you don't agree, please let us know your availability to confer within the next two business days pursuant to Judge Subramanian's rules (page 4, 5.C, attached).

Thanks very much,

Amelia J. Schmidt

Kaiser PLLC
1099 14th Street NW
8th Floor West
Washington, DC 20005
(202) 869-1301 (direct)
(202) 640-2850
aschmidt@kaiserlaw.com